



CITY OF NEWPORT BEACH HARBOR COMMISSION AGENDA

**Council Chambers – 100 Civic Center Drive
Wednesday, September 11, 2013 – 6:00 PM**

Harbor Commission Members:

Duncan McIntosh, Chair

Brad Avery

Paul Blank

David Girling

Karen Rhyne

Joe Stapleton

Doug West

Staff Members:

Chris Miller, Harbor Resources Manager

Shannon Levin, Harbor Resources Supervisor

Council Liaison:

Nancy Gardner

1) CALL MEETING TO ORDER

2) ROLL CALL

3) PLEDGE OF ALLEGIANCE

4) PUBLIC COMMENTS

Public comments are invited on agenda and non-agenda items generally considered to be within the subject matter jurisdiction of the Commission. Speakers must limit comments to three (3) minutes. Before speaking, we invite, but do not require, you to state your name for the record. The Commission has the discretion to extend or shorten the speakers' time limit on agenda or non-agenda items, provided the time limit adjustment is applied equally to all speakers. As a courtesy, please turn cell phones off or set them in the silent mode.

5) APPROVAL OF MINUTES – August 14, 2013 Minutes

6) CURRENT BUSINESS

1. Appeal of Harbor Resources Decision- Cantilevered Deck at 1114 E. Balboa Blvd

Harbor Resources has received an application for a 14' deck extension at 1114 E. Balboa Blvd. The Newport Beach Municipal Code (NBMC) limits bayward projections of patio decks to 5'; therefore, Harbor Resources staff has denied the application. The applicant has filed an appeal to be heard by the Harbor Commission.

This Commission is subject to the Ralph M. Brown Act. Among other things, the Brown Act requires that the Commission's agenda be posted at least seventy-two (72) hours in advance of each regular meeting and that the public be allowed to comment on agenda items before the Commission and items not on the agenda but are within the subject matter jurisdiction of the Commission. The Commission may limit public comments to a reasonable amount of time, generally three (3) minutes per person.

It is the intention of the City of Newport Beach to comply with the Americans with Disabilities Act ("ADA") in all respects. If, as an attendee or a participant at this meeting, you will need special assistance beyond what is normally provided, the City of Newport Beach will attempt to accommodate you in every reasonable manner. If requested, this agenda will be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. Please contact the City Clerk's Office at least forty-eight (48) hours prior to the meeting to inform us of your particular needs and to determine if accommodation is feasible at (949) 644-3005 or cityclerk@newportbeachca.gov.

Recommendation:

- 1) Uphold the denial of the application of the bayward cantilevered deck projection;
 - 2) Approve the 14' deck extension as proposed; or
 - 3) Approve the 14' deck extension with special conditions.
- 2. *Review and Approve the Proposed Harbor Commission Objectives for Fiscal Year 2013-14, and Approve Commission Pairings with Council Members***
The Harbor Commission will review and approve the proposed Commission Objectives for 2013-14. The Commission will also assign and approve the pairing of individual Commissioners with respective Council Members for the upcoming year.

Recommendation:

- 1) Approve the proposed Commission Objectives for 2013-14; and
 - 2) Approve the pairings of individual Commissioners with respective Council Members for the upcoming year.
- 3. *Review the Harbor Commission's Subcommittee Final Report on Public Piers in Newport Harbor***
The Harbor Commission's subcommittee will present their final report on public piers with specific focus on visitor access to the harbor.

Recommendation:

- 1) Receive and file.

7) SUBCOMMITTEE REPORTS

8) QUESTIONS AND ANSWERS WITH COUNCIL LIAISON ON HARBOR RELATED ISSUES

9) QUESTIONS AND ANSWERS WITH HARBOR RESOURCES MANAGER ON HARBOR RELATED ISSUES

10) PUBLIC COMMENTS ON SUBCOMMITTEE REPORTS OR QUESTIONS AND ANSWERS WITH COUNCIL LIAISON OR HARBOR RESOURCES MANAGER

11) COMMISSION ANNOUNCEMENTS OR MATTERS WHICH MEMBERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION OR REPORT (NON-DISCUSSION ITEM)

12) DATE AND TIME FOR NEXT MEETING: October 9, 2013, 6:00 PM

13) ADJOURNMENT

NEWPORT BEACH HARBOR COMMISSION REGULAR MEETING MINUTES
City Council Chambers
Wednesday, August 14, 2013
6:00 p.m.

1) CALL MEETING TO ORDER

The meeting was called to order at 6:00 p.m.

2) ROLL CALL

Commissioners: Duncan McIntosh, Chair - Absent (Excused)
 Brad Avery, Vice Chair
 Paul Blank
 David Girling
 Karen Rhyne
 Joe Stapleton
 Doug West

Staff Members: Chris Miller, Harbor Resources Manager
 Shannon Levin, Harbor Resources Supervisor

Council Liaison: Council Member Nancy Gardner

2) PLEDGE OF ALLEGIANCE – Commissioner Joe Stapleton

3) PUBLIC COMMENTS

Vice Chair Avery invited those interested in addressing the Commission to do so at this time.

Council Member Gardner reported that she will be unable to remain at the meeting for her usual segment because all of the items on the agenda have the possibility of being appealed to Council. Therefore, on the advice of the City Attorney, she will be recusing herself. She announced upcoming "look back" meetings regarding pier fees with the first meeting being held Thursday, August 15, 2013, at 3:00 p.m. at OASIS. The second meeting will be held August 21, 2013, at 6:00 p.m. at OASIS. Consideration will be given to internal inconsistencies and whether adjustments needed. The meeting will not open into question whether fees are warranted; that has been decided. Consideration will be given to determine if improvements or changes are necessary. Additionally, she reported that Council recently continued an item on which it was discussing the few cases where a pier extends across property lines and whether it should be made consistent with other transfers or whether it should be distinctly and separately handled. She reported that the item will return before Council at its meeting in September.

Jim Mosher commented on the recent Council meeting noting that Item 3 on the agenda was the first reading of an ordinance changing the Harbor Commission's purpose and responsibilities where a new responsibilities were added, none were eliminated and the terms of office were maintained. Additionally, he commented on the matter of pier encroachments and the transfer of a dock at a specific site. He referenced testimony regarding litigation and felt that if there was a threat of litigation, the public has the right to know what the threat was. He hoped that the Harbor Commission will agendize the matter to determine what is occurring regarding the property and why Council is considering changing the ordinance.

There being no others wishing to address the Harbor Commission, Vice Chair Avery closed the public comments portion of the meeting.

4) APPROVAL OF MINUTES – July 10, 2013 Minutes

Motion: Commissioner Blank made a motion to approve the minutes of the Harbor Commission of the July 10, 2013, Regular Meeting, as presented. Commissioner Rhyne seconded the motion, which carried with 6 ayes and 0 noes, and Chair McIntosh, absent. Approved.

5) CURRENT BUSINESS

1. *3388 Via Lido Dock and Boardwalk Project*

Harbor Resources has received an application to remove and replace the dock and boardwalk at 3388 Via Lido. The new slips will be assigned to the two residential units at the upland property. The boardwalk will be replaced like-for-like maintaining public access along the waterfront.

Recommendation:

- 1) Provide comment to staff. Receive and file.

Vice Chair Avery introduced the item and read title to the aforementioned item.

Harbor Resources Supervisor Shannon Levin presented details of the report. She addressed location, existing conditions, and surrounding properties, details of the proposal, public access, and boardwalk, compliance with the Municipal Code and Design Guidelines and gangways. She noted this is a significant development of which the Harbor Commission needs to be informed.

Members of the Commission commented positively on the proposal.

Ms. Levin reported that adjacent property owners have been notified of the matter. She noted that the dock does not extend past the Project Line. She added that it will require a residential pier permit and will require a five-foot setback. Public access will be provided.

Interested parties were invited to address the Harbor Commission on this matter.

Ron Lorntzen, DJM Capital Partners, expressed concerns regarding access to the docks and asked that the Commission consider both developments, together; to make sure they are in sync with each other.

There being no others wishing to address the Harbor Commission, Vice Chair Avery closed public comments for this item.

Ms. Levin reported there is a continuous headwalk that runs along the Lido Marina Village, which will be severed near the location of the boardwalk, and public access will no longer run along the headwalk. Public access will be maintained all along the Lido Marina boardwalk and Ms. Levin pointed out the access points.

Chris Miller, Harbor Resources Manager reported that generally, the public uses the elevated boardwalk along existing restaurants and store fronts. Those who use the floats and headwalk are typically people associated with the boats on the dock. He explained the path with the proposed project. He added that planning staff helped in determining the rules for the subject property.

Commissioner West suggested allowing a thirty-day period to ensure that adjacent neighbors understand the project and there is compatibility with the plans.

2. *Mooring Permit Revocations for Failure to Pay Annual Rental Fees: S-145, H-410, C-42, and J-51*

Four mooring permittees have failed to pay their annual mooring rental fees despite repeated attempts by City staff to collect the mooring rental fees. Mooring permits may be revoked due to failure to pay annual rental fees. Annual rental fees are initially invoiced in January with late-payment notices in April and May. According to Newport Beach Municipal Code (NBMC) Chapter 17.70, the Harbor Commission shall conduct a hearing prior to revoking a mooring permit.

Recommendation:

- 1) Hold a public hearing, consider the relevant evidence, and if justified under NBMC Sections 17.60.040(L)(1) and 17.70.020(A)(5), revoke mooring permit S-145 for failure to pay annual rental fees.
- 2) Hold a public hearing, consider the relevant evidence, and if justified under NBMC Sections 17.60.040(L)(1) and 17.70.020(A)(5), revoke mooring permit H-410 for failure to pay annual rental fees.
- 3) Hold a public hearing, consider the relevant evidence, and if justified under NBMC Sections 17.60.040(L)(1) and 17.70.020(A)(5), revoke mooring permit C-42 for failure to pay annual rental fees.
- 4) Hold a public hearing, consider the relevant evidence, and if justified under NBMC Sections 17.60.040(L)(1) and 17.70.020(A)(5), revoke mooring permit J-51 for failure to pay annual rental fees.

Vice Chair Avery reported having a business relationship with one of the subject permittees, recused himself from hearing the matter and departed the Chambers.

Commissioner Blank took charge of the meeting.

Harbor Resources Supervisor Levin presented details of the report addressing collection of fees, issuance of late notices and efforts by Harbor Resources staff to collect the fees. She referenced applicable provisions in the Code and addressed location of the moorings and the status of each of the subject moorings and subsequent actions should the permits be revoked. She added that if the Commission revokes the permits, there will be a fourteen-day appeal period in which permittees may appeal the findings through Council. If no appeal is brought forth, the permittees must remove any vessels within thirty days.

In response to an inquiry from the Commission, Ms. Levin reported that, with tonight's meeting notice, the permittees have been given six opportunities to pay the fines. It is their responsibility to notify Harbor Resources of any changes in address or contact information. None of the permittees have contacted Harbor Resources in response to the communications sent.

Discussion followed regarding the process if moorings are revoked.

In relation to the revocation of mooring permit S-145, discussion followed regarding the amount due. It was noted that on-shore moorings are half of the off-shore mooring rates.

Commissioner West stated that the record reflects that the mooring holder has received substantial due process.

Interested parties were invited to address the Commission on this matter.

Jim Mosher commented on topic rather than the individual cases and suggested that notices may have been distributed to the wrong addresses. He reported that there are no existing by-laws for the Harbor Commission and suggested that it may be helpful for the Commission to consider establishing rules for how a hearing should be held.

There being no others wishing to address the Harbor Commission, Commissioner Avery closed public comments for this item.

Motion: Commissioner West made a motion that under NBMC Sections 17.60.040(L)(1) and 17.70.020(A)(5), to revoke mooring permit S-145 for failure to pay annual rental fees. Commissioner Girling

seconded the motion, which carried with 5 ayes and 0 noes, with Commissioner Avery, recused and Chair McIntosh, absent. Approved.

In relation to the revocation of mooring permit H-410, Commissioner Blank addressed the amount due and status of the mooring.

Interested parties were invited to address the Harbor Commission on this matter.

Robert White, permittee, apologized for his negligence and stated he is prepared to meet his financial obligation.

Mr. Miller explained the process going forward for this case, noting that the permittee would need to pay the fees through the City's Cashier.

There being no others wishing to address the Harbor Commission on this matter, Commissioner Blank closed public comment for this item.

Motion: Commissioner Girling made a motion to not revoke mooring permit H-410 subject to successful collection of the fees due by end of day, August 15, 2013, otherwise it will revert to revocation. Commissioner Stapleton seconded the motion, which carried with 5 ayes and 0 noes, with Commissioner Avery, recused and Chair McIntosh, absent. Approved.

Regarding revocation of mooring permit C-42, Commissioner Blank addressed the amount due and status of the mooring.

Interested parties were invited to address the Harbor Commission on this matter. There was no response and public comments were closed.

Motion: Commissioner Rhyne made a motion that under NBMC Sections 17.60.040(L)(1) and 17.70.020(A)(5), to revoke mooring permit C-42 for failure to pay annual rental fees. Commissioner Girling seconded the motion, which carried with 5 ayes and 0 noes, with Commissioner Avery, recused and Chair McIntosh, absent. Approved.

Regarding revocation of mooring permit J-51, Commissioner Blank addressed the amount due and status of the mooring.

Interested parties were invited to address the Harbor Commission on this matter. There was no response and public comments were closed.

Motion: Commissioner Girling made a motion that under NBMC Sections 17.60.040(L)(1) and 17.70.020(A)(5), to revoke mooring permit J-51 for failure to pay annual rental fees. Commissioner Stapleton seconded the motion, which carried with 5 ayes and 0 noes, with Commissioner Avery, recused and Chair McIntosh, absent. Approved.

Vice Chair Avery returned to the Chambers and took his place on the dais.

3. Request for Moorage for Two Large Vessels in Newport Harbor

At the July meeting, the Harbor Commission was requested to consider allowing the Invictus, a 216' vessel, to moor in Newport Harbor on a temporary basis for two months. Coincidentally, the Marama, a 130' vessel, made a similar request as well. The Harbor Commission formed a subcommittee to review the requests and to provide a recommendation at the August meeting.

Recommendation:

- 1) Per the subcommittee's recommendation, the Harbor Commission is requested to advise the Harbor Resources Manager to approve the Invictus and Marama's request to moor in

Newport Harbor with certain conditions as described below and as discussed at tonight's meeting.

Vice Chair Avery presented a brief background of the aforementioned item including consideration by the Harbor Commission and the formation of a Subcommittee to review the matter.

Harbor Resources Manager Miller provided details of the report addressing the Harbor Commission's goal to encourage a more welcoming and preferred destination of Newport Harbor for all vessels. He addressed availability of moorings for various size vessels, formation of a subcommittee to review the requests for the Invictus and Marama, evaluation of requests and determination of mooring locations based on the depths in the Harbor. He presented proposed mooring locations, harbor depths and length of the proposed stays. Mr. Miller commented on the relationship of the vessels in the specific parts of the Harbor and reported that the boat show will be in full swing at the same time the Marama will be moored. The vessels will not be sharing the area but Mr. Miller approximated the general area of the mooring. He stated that the subcommittee recommends allowing the moorings on a trial basis, noting that it will not set precedence, but will provide information to gather for future requests. He noted that the events do not occur on a regular basis and that it is merely coincidence that the two requests have occurred at the same time. He noted that the vessels are not commercial or party boats, but rather private vessels. The subcommittee developed conditions for consideration by the Commission and Mr. Miller presented details of the conditions as stated in the report.

Commissioner Girling stated that he knows the Invictus applicant and that despite the acquaintance, he can be unbiased and objective during these discussions. Regarding the Invictus, he reported trying to choose the safest location that mitigated homeowner views and noise from generators. He reported that both vessels would have to adhere to the City's noise requirements while they are in the Harbor. He noted that Harbor Patrol participated in the meetings to ensure compliance with safety standards and added that if the City incurs any related costs, it will be reimbursed. He recommended that if similar cases will be handled on an on-going basis, he recommended reviewing the fee schedule going forward.

If the Commission decides to support this, it was noted that this is based on an ad-hoc decision and that no standards or policies are being established at this time and it is an opportunity to see how it works, or doesn't work.

In reply to Commissioner Blank's inquiry regarding an application for a marine activity permit regarding the matter, Mr. Miller reported there will be no application for a marine activity permit but that the request is sufficient for its purpose at this time. A more formal form may be developed in the future. The conditions will be communicated to the owners of both vessels.

Commissioner Rhyme stated the need for more information and expressed concerns regarding crew sizes, minimum maneuvering speeds, noise and diesel exhaust, fuel docks, water and pump out, access on and off the ships, indemnity and security and the lack of appropriate guarantees.

Commissioner Girling reported that the Invictus plans on using the Balboa Bay Club for staging, but is not familiar with the logistics or the crew.

Mr. Miller reported that a condition may be included that the mooring permit can be revoked at any time.

Discussion followed regarding using the situation as a test run.

Vice Chair Avery reported that he knows the owner of Marama but he can be unbiased and objective during these discussions. He noted that the captains and crews are professional and would not approach the City if they had any issues of concern. He added that the vessels have the latest technology and licensing of crews and there is precedence in the Harbor for mooring of large vessels. He suggested proceeding with the request on a trial basis.

Interested parties were invited to address the Harbor Commission on this matter.

Judy Cole, 3326 Via Lido, felt that testing the concept is premature and expressed concerns with harbor depth, anchor swing, blocked views and setting precedence.

Pam Whitesides, 3328 Via Lido, spoke in opposition to the matter and commented on the heavy use of the harbor, blocked views, lack of privacy and possible decreases in property values. She encouraged the Commission to ensure that harbor uses are compatible with the adjacent residential neighborhoods.

Len Bose commented on the need for lighting on anchorages, and moorings, and association rules related to crew members staying on board.

Jim Mosher stated that originally, the Invictus was to moor for a one-week christening party but that it now has morphed into a two-month home port stay. He acknowledged the concerns listed by Commissioner Rhyne, added the need for due process and wondered regarding the appointment of Commission Members to the subcommittee and inclusion of other people in making recommendations.

There being no others wishing to address the Harbor Commission on this item, Vice Chair Avery closed public comments.

Commissioner West commented on the use of a public waterway and permission for anchorage by the Harbormaster. He wondered regarding the fundamental objection, but felt that the process has been very thorough.

Commissioner Rhyne felt that the 130' boat should not be anchored for a week, especially with a single anchor. Regarding interim anchorage for two months for the Invictus, she felt that the Commission is making a premature decision. She felt that there is not sufficient information to make a proper decision.

Mr. Miller suggested a condition that the Marama require a bow anchor and a stern mooring.

It was noted that the Marama captain feels there is sufficient area to swing.

Motion: Commissioner West made a motion that the requests for the anchorages of the two vessels for the periods of time mentioned be approved and recommended to the Harbor Resources Division and that the smaller vessel be encouraged to use stern mooring to avoid swinging.

Commissioner Girling noted he is sensitive to Commissioner Rhyne's concerns and agreed with the possibility of making the mooring revocable.

Commissioner West felt that the right to revoke is implicit.

Commissioner Blank seconded the motion, which carried with 5 ayes and 1 noes, with Commissioner Rhyne, opposed and Chair McIntosh, absent. Approved.

Item No. 5 was heard at this juncture.

4. Review the Proposed Harbor Commission Objectives for Fiscal Year 2013-14

The Harbor Commission will review and provide input to the proposed Commission Objectives for 2013-14. The Subcommittee will then refine the Objectives and return in September with a final recommendation.

Recommendation:

- 1) Provide input to the proposed Harbor Commission Objectives for fiscal year 2013-14.

Commissioner West, Chair of the Subcommittee for the development of objectives for fiscal year 2013-2014, addressed the subcommittee members and reported on meetings to consider the objectives and presented a

first draft of proposed objectives. He commented on the process including a review by the Tidelands Management Committee to seek their approval and endorsement. He highlighted the objectives noting they are an evolution of objectives adopted last year. He noted that they were organized under two main headings including the responsibility of the Harbor Commission to ensure the long-term welfare of Newport Harbor and the promotion of Newport Harbor as a preferred and welcoming destination. The first category is to continue the work to achieve final interagency approval of the Newport Shallow Water Eelgrass Mitigation Plan which will support a new Regional General Permit (RGP-54) process. He noted there has been substantial progress on this matter within the last year and reported that it is on track to be achieved by April 1, 2014 and the supporting mitigation program in the Newport specific plan needs to be in place by that time. He suggested incorporating the specific effective date into the objective.

Public comments were invited, but here were none.

The next objective relates to completion of recommendations for the best public use of Lower Castaways. He added that changes include cooperating with the Parks, Beaches and Recreation Commission to develop specific recommendations in the development of the Lower Castaways for presentation to Council.

Commissioner Girling reported that the Subcommittee reached out to the Parks, Beaches and Recreation Commission and they have appointed two Ad Hoc Members to serve on the subcommittee.

Another objective is to secure the California Department of Boating and Waterways approval for a proposed amendment to the Harbor Code granting an exception to the Harbor speed limit. He stressed that this is the year for accomplishing this objective.

Public comments were invited, but here were none.

Commissioner West addressed the objective of investigating the existing designations to the Bulkhead and Pierhead Lines in conjunction with the current vessel overhand regulations and compliance. He reported that the issue was presented to the Tidelands Management Committee and the subcommittee received direction to proceed with the objective. He indicated that Commissioner Rhyne has expressed interest in participating and will serve as Chair of the subcommittee, going forward. He added that the Tidelands Management Committee asked that the subcommittee not pursue Project Line realignment and encouraged focusing on Bulkheads and Pierhead Lines in connection with existing vessel overhand regulations.

Public comments were invited, but here were none.

Commissioner West presented the fifth objective to strengthen the Harbor Commission's public outreach to better communicate the Commission's role, purpose and objective. He noted that progress has been made, thanks to the press and that efforts will be redoubled in that regard.

Included for further consideration are derelict vessels and alternative offshore mooring designs. Commissioner West wondered if objectives should be developed on the two topics. He noted the lack of appropriate data regarding the issue of derelict vessels and felt that the first step in developing a solution would be to decide whether it is a problem in the harbor.

Discussion followed regarding the adequacy of the existing list and the possibility of adding the two topics for consideration in next year's objectives. There was general support for considering the concepts but it was suggested to wait until next year.

Under the category of promoting Newport Harbor as a preferred and welcoming destination, Commissioner West reported on the continued collaboration with Visit Newport Beach to plan and execute a Harbor Summit Event. He noted that the organization has changed its name to Newport Beach and Company and noted the need to update the objective to reflect same.

Public comments were invited on this item.

Jim Mosher reported that Visit Newport Beach still exists and is a component of Newport Beach and Company.

There were no others wishing to address the Commission.

Commissioner West reported on the objective related to public piers and considering potential new locations for public piers. He reported that the work is on-going with the support of the Subcommittee.

Commissioner West addressed the completion of an evaluation of public anchorage alternatives, acknowledged public concerns and noted it is the recommendation of the subcommittee that the Commission continue to consider the option.

The public was invited to comment on this item.

Len Bose commented on publicity and steps that could be taken by the Commission to obtain funds.

Pam Whitesides reported that it is possible to do something at the turning basin if outside music is forbidden. She complained about noise and chaos and suggested that the matter would need specific rules including enforcement of the rules by the Harbor Patrol.

There were no others wishing to address the Commission.

Commissioner West addressed the last objective regarding the completion and publication of a Harbor Cruising Guide. He reported that it will be an update to the existing cruising guide, noted changes in the Harbor and felt that it would be appropriate to make the changes to the Cruising Guide. The subcommittee is also considering further enhancing the online version of the guide on the website. He added that Commission Members have been identified to serve on the subcommittees associated with each of the objectives and that recommendations include re-establishing the various subcommittees. He added that a report will be presented to the Harbor Commission at its next meeting for action at that time.

5. Harbor Commission Representation on the Tidelands Management Committee's Citizens Advisory Panel

The Harbor Commission will recommend one Commissioner for the City Council's Citizens Advisory Panel ("CAP") of the Tidelands Management Committee.

Recommendation:

- 1) The Harbor Commission will recommend Paul Blank to represent the Harbor Commission on the Citizen's Advisory Panel of the Tidelands Management Committee.

Vice Chair Avery provided a brief background noting that at a previous meeting, Commissioner Blank expressed interest in representing the Harbor Commission on the Citizen's Advisory Panel of the Tidelands Management Committee. He added that it, in no way, limits the Harbor Commission's participation on the panel.

Motion: Commissioner West made a motion to approve Commissioner Blank to represent the Harbor Commission on the Citizen's Advisory Panel of the Tidelands Management Committee. Commissioner Rhyné seconded the motion, which carried with 6 ayes and 0 noes, with Chair McIntosh, absent. Approved.

Item No. 4 was heard at this juncture.

7) SUBCOMMITTEE REPORTS

Commissioner Girling provided an update on the Lower Castaways Subcommittee noting that two Ad Hoc Members from the Parks, Beaches and Recreation Commission have been appointed to same. He reported

receipt of a study by Anchor QEA on the bulkheads and presented a brief summary including costs involved in site development. He addressed options for the site and noted that process is moving along.

Commissioner Blank reported he has appointed himself to the Entertainment Subcommittee and reported watching a movie referenced by Councilmember Gardner at the previous meeting. He commented on scheduling ride-a-longs with the Harbor Patrol and offered applications to those interested in participating. He will follow up with interested Members.

Commissioner Blank presented a brief update on the Harbor Summit and the Public Piers Subcommittee and addressed next steps in the process. He congratulated Derek Pickell who won the recent 2013 Junior Sabot National Championship.

Commissioner Stapleton commented on a phone app available for the Harbor through Visit Newport Beach.

The public was invited to comment and there was no response.

8) QUESTIONS AND ANSWERS WITH COUNCIL LIAISON ON HARBOR RELATED ISSUES - None

9) QUESTIONS AND ANSWERS WITH HARBOR RESOURCES MANAGER ON HARBOR RELATED ISSUES

Harbor Resource Manager Miller reported that the City received word from the Coastal Commission that the Marina Park project permit is in the mail and addressed next steps going forward.

He announced the upcoming workshops on commercial and residential piers and moorings on Thursday, August 15, 2013, at 3:00 p.m. at OASIS and August 21, 2013, at 6:00 p.m. at OASIS and addressed items for consideration during those meetings.

Mr. Miller addressed the Harbor Commission's purpose and responsibilities and stated that the second reading of the ordinance will occur during the September 10, 2013, Council meeting.

He reported on the progress of the RGP-54 and the City's Eelgrass plan. He thanked Commissioner West for his help on the matter. He noted that there is a current permit process in place and encouraged residents to submit their applications on time.

10) PUBLIC COMMENTS ON SUBCOMMITTEE REPORTS OR QUESTIONS AND ANSWERS WITH COUNCIL LIAISON OR HARBOR RESOURCES MANAGER

The public was invited to comment and there was no response.

11) COMMISSION ANNOUNCEMENTS OR MATTERS WHICH MEMBERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION OR REPORT (NON-DISCUSSION ITEM)

Vice Chair Avery commented on Code Enforcement on the Harbor and coordinating with the Harbor Patrol. He stated that he would like to explore the matter further in the future.

Brief discussion followed regarding providing an update on the vessel Cheyenne.

12) DATE AND TIME FOR NEXT MEETING: September 11, 2013, 6:00 PM

13) ADJOURNMENT

There being no further business to come before the Harbor Commission, the meeting was adjourned at 8:13 p.m.



== CITY OF ==

NEWPORT BEACH

Harbor Commission Staff Report

Agenda Item No. 1
September 11, 2013

TO: HARBOR COMMISSION

FROM: Public Works Department
Shannon Levin, Harbor Resources Supervisor
949-644-3041, shannon@newportbeachca.gov

TITLE: Appeal of Harbor Resources Decision- Cantilevered Deck at 1114 E. Balboa Blvd

ABSTRACT:

Harbor Resources has received an application for a 14' deck extension at 1114 E. Balboa Blvd. The Newport Beach Municipal Code (NBMC) limits bayward projections of patio decks to 5'; therefore, Harbor Resources staff has denied the application. The applicant has filed an appeal to be heard by the Harbor Commission.

RECOMMENDATION:

1. Uphold the denial of the application of the bayward cantilevered deck projection;
2. Approve the 14' deck extension as proposed; or
3. Approve the 14' deck extension with special conditions.

FUNDING REQUIREMENTS:

No funding requirements.

DISCUSSION:

An application has been submitted to Harbor Resources for the review of a proposed cantilevered deck at 1114 E. Balboa Blvd (Attachment A, Vicinity Map).

The existing configuration of structures at the subject property includes a wooden pier platform and dock system, 7' cantilevered deck, and 7'6" bayward steps to the shoreline (Attachment B, Existing Conditions). The subject property is unique in that the property lines extend into the water approximately 60', therefore, the water area within the property lines is considered private waterway (Attachment C, Property View). The physical bulkhead is approximately 4' bayward of the existing residence.

For reference the neighboring properties (1112, 1118, and 1120 E. Balboa Blvd.) extend further bayward than the subject property, however, these structures are not cantilevered but extend to the physical bulkheads.

The proposed project (Attachment D, Proposed Configuration) would eliminate the 25'x7' steps to the sand and incorporate an additional 7'6" onto the existing 7', pile supported cantilevered deck. The proposed deck extension has the same dimensions as the existing deck and steps.

NBMC Section 17.35.020(C) allows for patio decks to extend over waters that are not considered City Tidelands. In this case the area under consideration is outside of City Tidelands. NBMC Section 17.35.020(C)(1) conditions extensions to a maximum of five feet beyond the bulkhead line. In this instance the physical bulkhead, is the point of reference, NBMC 17.35.020(B)(3). The applicant requests to cantilever a total of 14'6" beyond the physical bulkhead or 9'6" beyond the allowable cantilever limit.

Additionally NBMC Section 17.35.020(C)(2) requires 5' setbacks from the prolongation of the property lines. The proposed configuration extends along the frontage to the property line of 1112 E. Balboa Blvd creating a zero lot line.

The applicant met with staff to discuss the project and the inconsistencies with the NBMC. Staff may issue an Approval in Concept when a design fits within the conditions of the NBMC, Council Policy H-1, etc., however this project is outside of the scope of the NBMC. The applicant has requested an appeal to the Harbor Commission to review the proposal and to make a decision per NBMC 17.65.010.

Harbor Commission may affirm, modify, or reverse the decision made by staff:

4. Uphold the denial of the application of the bayward cantilevered deck projection;
5. Approve the 14' deck extension as proposed; or
6. Approve the 14' deck extension with special conditions.

Decisions of the Harbor Commission may be appealed to the City Council by a member of the City Council, and appeals shall be initiated in writing within fourteen (14) days of the decision per NBMC Section 17.65.


ENVIRONMENTAL REVIEW:

The Harbor Commission's approval of this item is categorically exempt from CEQA under section 15302, Class 2, Replacement or Reconstruction: "Class 2 consists of replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced."

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the Harbor Commission considers the item).

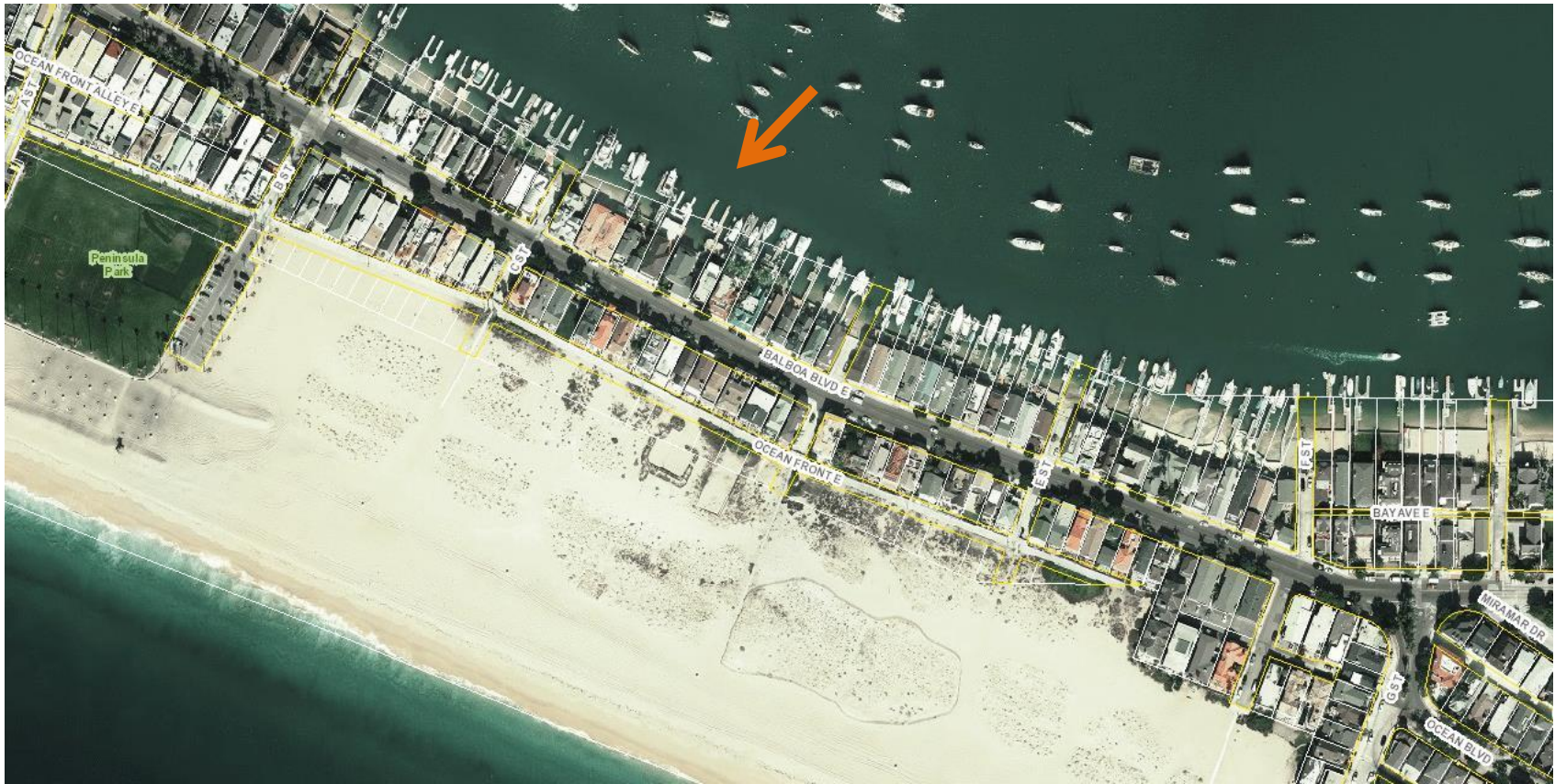
Submitted by:


Shannon Levin

Attachment:

- A. Vicinity Map
- B. Existing Conditions
- C. Property View
- D. Proposed Configuration

Vicinity Map- 1114 E. Balboa Blvd



ATTACHMENT A

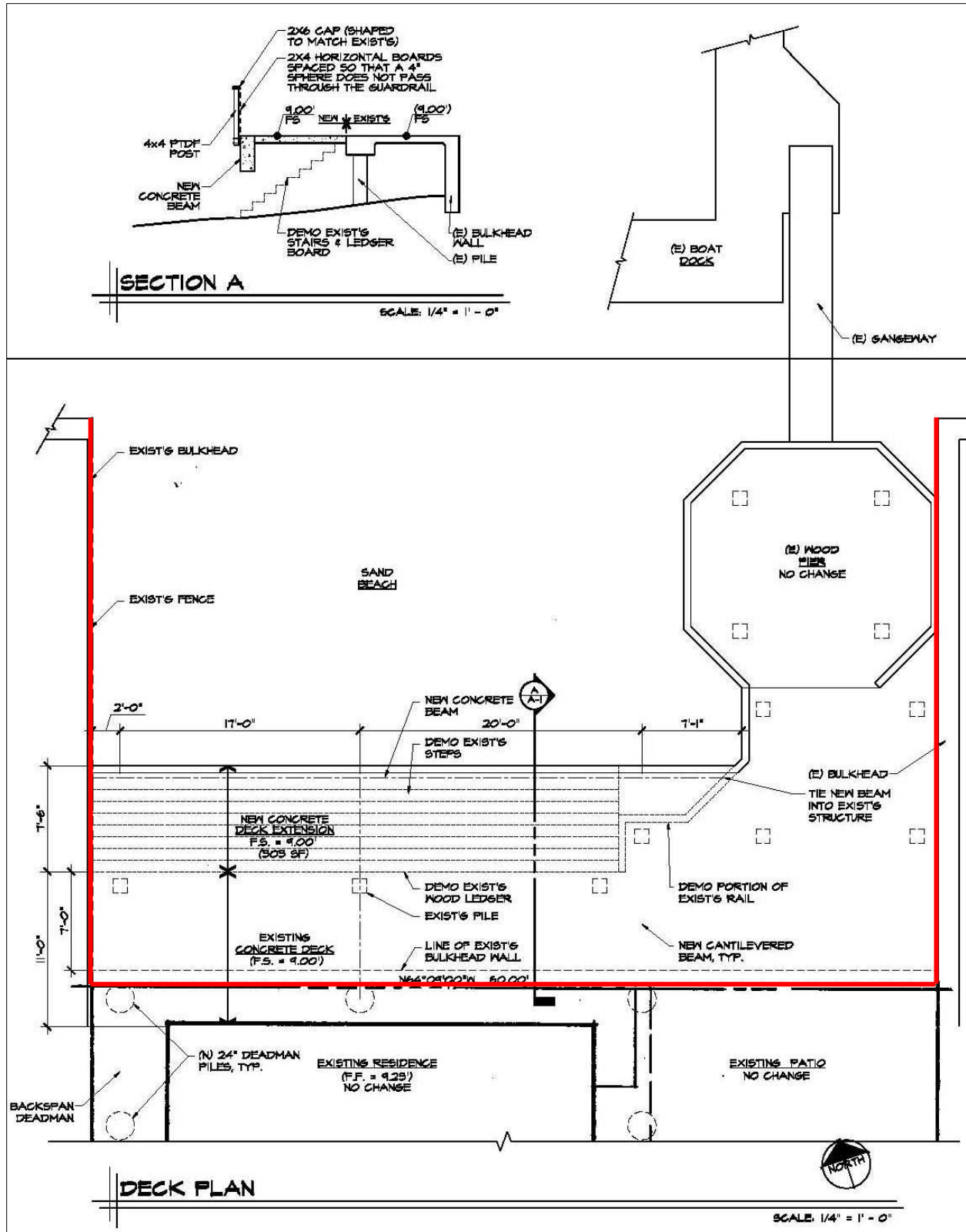
Existing Conditions



Property View



Proposed Layout





NEWPORT BEACH

Harbor Commission Staff Report

Agenda Item No. 2
September 11, 2013

TO: HARBOR COMMISSION

FROM: Public Works Department
Chris Miller, Harbor Resources Manager
949-644-3043, cmiller@newportbeachca.gov

TITLE: Review and Approve the Proposed Harbor Commission Objectives for Fiscal Year 2013-14, and Approve Commission Pairings with Council Members

ABSTRACT:

The Harbor Commission will review and approve the proposed Commission Objectives for 2013-14. The Commission will also assign and approve the pairings of individual Commissioners with respective Council Members for the upcoming year.

RECOMMENDATION:

1. Approve the proposed Commission Objectives for 2013-14; and
2. Approve the pairings of individual Commissioners with respective Council Members for the upcoming year.

FUNDING REQUIREMENTS:

There is no fiscal impact related to this item.

DISCUSSION:

Please see the attached proposed Harbor Commission Objectives for 2013-14.

ENVIRONMENTAL REVIEW:

Staff recommends the Harbor Commission find this action is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the Harbor Commission considers the item).

Submitted by:


Chris Miller

Attachments: A. Proposed Harbor Commission Objectives for 2013-14

Newport Harbor Commission Objectives FY 2013 – 14

[Proposed Draft]

These objectives are intended to support the mission of the Harbor Area Management Plan and to carry out the role and key responsibilities of the Harbor Commission: (1) to ensure the long term welfare of Newport Harbor for all residential, recreational, and commercial users; (2) to promote Newport Harbor as a preferred and welcoming destination for all to enjoy.

These proposed objectives are subject to the review and approval of the Commission, and final approval of the Newport Beach City Council. Principal responsibility for the achievement of each objective is assigned to a subcommittee of the Harbor Commission, as noted below. Progress towards these objectives will be reported, when appropriate, by the chair of each subcommittee during regular meetings of the Harbor Commission. The chair of each subcommittee is shown in italics.

Ensuring the Long Term Welfare of Newport Harbor

1) Support all efforts to achieve final interagency approval of the Newport Shallow Waters Eelgrass Mitigation Plan, facilitating a new Regional General Permit (RGP 54) effective April 2014. The purpose of the Plan is to enable a more efficient and cost-effective RGP 54 permitting process for dock maintenance dredging through an ecosystem-based approach to sustaining and promoting the population of shallow water eelgrass in all areas of Lower Newport Bay where such eelgrass is found. [*West, McIntosh, Avery*]

2) Complete the development of recommendations for the best public use of Lower Castaways, the last remaining undeveloped city-owned waterfront property. Collaborate with the Parks, Beaches and Recreation Commission in developing specific recommendations for presentation to the City Council. [*Girling, Avery, Rhyne*]

3) Secure California Department of Recreation approval for a proposed amendment to the Harbor Code which would grant an exception to the harbor speed limit for sanctioned sail racing and human powered racing events. With such authorization, recommend the proposed amendment to the City Council for enactment. [**Blank, West**]

4) Investigate the existing designations of Bulkhead and Pierhead lines throughout the harbor in conjunction with current vessel overhang regulations and compliance. Determine if specific changes to those harbor boundaries and overhang regulations or their enforcement should be recommended to the City Council. Develop specific recommendations to the Council if any changes are deemed appropriate. [**Rhyne, McIntosh, Stapleton**]

5) Strengthen the Harbor Commission's public outreach to better communicate the Commission's role, purpose, and objectives as a citizens advisory voice for the harbor community. [**Girling, Avery, Blank**]

Promoting Newport Harbor as a Preferred and Welcoming Destination

6) Collaborate with Newport Beach & Company to plan and execute a Harbor Summit event involving key stakeholders in the harbor community. The Summit will engage the stakeholders in the development of coordinated strategies for increasing the number of visiting vessels, enhancing the harbor experience for visitors and residents, and better supporting the businesses that serve all harbor users. [**Blank, Girling, West**]

7) Carry forward the results of last year's evaluation of existing public piers and potential new locations for public piers. Present specific recommendations to the City Council on public pier improvements and additions to facilitate better access to harbor area business and amenities serving both visiting and local boaters. [**Blank, Girling**]

8) Complete the evaluation of public anchorage alternatives, specifically addressing the concept of establishing an anchorage in the Turning Basin such as the one used on a temporary basis during the 2012 Lower Bay dredging project. [**Avery, McIntosh, West**]

9) Update and publish a 3rd edition of *The Complete Cruising Guide to Newport Harbor*, first published by the Harbor Commission in 2010. [**West, Rhyne, Stapleton**]



NEWPORT BEACH

Harbor Commission Staff Report

Agenda Item No. 3
September 11, 2013

TO: HARBOR COMMISSION

FROM: Public Works Department
Chris Miller, Harbor Resources Manager
949-644-3043, cmiller@newportbeachca.gov

TITLE: Review the Harbor Commission's Subcommittee Final Report on Public Piers in Newport Harbor

ABSTRACT:

The Harbor Commission's subcommittee will present their final report on public piers with specific focus on visitor access to the harbor.

RECOMMENDATION:

1. Receive and file.

FUNDING REQUIREMENTS:

There is no specific fiscal impact related to the receiving and filing of this report. Any future improvements or maintenance activities that relate to public piers will be budgeted through the normal budget process.

DISCUSSION:

Please see the attached final report.

ENVIRONMENTAL REVIEW:

Staff recommends the Harbor Commission find this action is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the Harbor Commission considers the item).

Submitted by:


Chris Miller

Attachments: A. Subcommittee Report on Public Piers

**Newport Beach
Harbor Commission
Public Pier Objective Report and Recommendations
September 11, 2013**

Objective: Continue to evaluate the placement of existing public piers that facilitate visitor access to harbor area businesses and amenities. Develop recommendations for the repositioning or development of additional piers to improve visitor access

Approach:

- Review existing piers
- Review prior efforts/progress in support of the objective
- Assess what businesses and amenities boaters desire to visit
- Assess where public piers (or the absence thereof) limit boater access to the desired businesses or amenities
- Recommend where the City is likely to achieve the highest returns on investments in Public Piers
- Relate recommendations to Harbor and Bay Element section of the General Plan, the Harbor Area Management Plan (HAMP) and the Tidelands Capital Infrastructure Plan

Steps taken:

- Collected information on prior efforts supporting this objective
- Conducted multiple reviews of existing public piers and patterns of use
- Reviewed shore side businesses, services and amenities boaters wish to visit using peer harbor and boating community member sources
- Refined objective:
 1. Improve use of existing piers to facilitate visitor access to harbor area businesses and amenities
 2. Identify opportunities for additional piers to facilitate visitor access
- Developed recommendations in support of the objective
- Reviewed, referenced and ensured concurrence between recommendations and relevant sections of guiding documents:
 - **Tidelands Capital Infrastructure Plan** (Small Cap Projects and Maintenance Projects)
 - **Harbor and Bay Element of General Plan** (Public Access, Goal HB 6)
- Banked suggestions/recommendations for improvements to Public Piers that were not in direct support of this objective

Observations - the strengths
configuration, accessibility, maintenance/attractiveness, location



Observations - the challenges
maintenance, cleanliness, signage, boater usability



Observations - the businesses and amenities boaters most desire to visit when they come ashore:

1. Restaurants, bars and entertainment including theatres
2. Provisions and supplies including water, groceries and marine hardware
3. Shore side services including power, laundry/dry cleaning and aesthetics (gym, spa, massage, hair & nails)
4. Access to alternative recreation (hiking, biking, kayaking, SUP, etc...)
5. Access to public restrooms/other public facilities including libraries, police stations, fire stations

Observations – concentrations of the businesses and amenities boaters most desire to visit when they come ashore:



Conclusions:

- There are opportunities to improve use of existing public piers through additional maintenance, improvement and attention
- There are opportunities to place additional piers near businesses and amenities boaters desire to visit

Proposed Recommendations related to Improving Use of Existing Piers:

1. Perform more frequent and extensive cleaning, maintenance and dredging under and adjacent to all existing public piers and floats.
2. Reconfigure or reconstruct docks to optimize available space and better insulate piles/pilings from boats that want to make use of floats
3. Institute a “sponsorship” or “Adopt-a-dock” program approaching businesses, community organizations and/or individuals to partner with the City to ensure the various public docks are well maintained, safe, clean and signage is intact, complete and accurate
4. Improve existing and add amenities on the public piers that boaters use including public restrooms, fresh water, 30A electricity, upland loading zones, bike racks and marine recycling facilities
5. Add a dedicated function similar to the City Park Ranger or Police/Sheriff’s Explorer to enforce rules, identify areas/amenities requiring more attention, raise awareness and improve appeal of the facilities and emphasize the presence of this function during busy days and times of harbor use

Proposed Recommendations related to Opportunities for Additional Piers:

1. Develop new public pier at Lido Marina Village
2. Develop new public pier at Balboa Marina (Cal Rec)
3. Develop new public pier at Lower Castaways
4. Develop new public pier at the northwest base of the Lido Isle Bridge
5. Develop new public pier with access to West Pacific Coast Highway such as the east end of the Balboa Bay Resort property or equivalent

Proposed Recommendations related to Opportunities for Additional Piers:



Next Steps:

- Revise Recommendations Further
- Adopt Recommendations